

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SCOTT JOSEPH WALLACE,)	NO. CV 14-8052 DSF (AS);
)	NO. CV 15-8680 DSF (AS)
Plaintiff,)	
)	
v.)	ORDER TO SHOW CAUSE
)	
CELLCO PARTNERSHIP, et al.,)	
)	
Defendants.)	
)	

On October 17, 2014, in case no. CV 14-8052 DSF (AS) ("Wallace I"), pro se plaintiff Scott Joseph Wallace ("Plaintiff") filed a Complaint against the following defendants: (1) the City of Los Angeles ("City"); (2) the Los Angeles Police Department ("LAPD"); (3) LAPD Chief Charlie Beck, in his individual and official capacities; (4) Cellco Partnership dba Verizon ("Verizon"); (5) AT&T, Inc.; (6) Harris Wireless Products Group, Inc. ("Harris Wireless"); (7) the Federal Bureau of Investigation ("FBI"); and (8) former Los Angeles County Sheriff Lee Baca. On December 17, 2014, AT&T, Inc., filed a Motion to Dismiss the Complaint for lack of personal jurisdiction, which the Court granted on February 9, 2015, dismissing AT&T, Inc., from the

1 action without leave to amend. The Court also sua sponte dismissed
2 Plaintiff's claims against the FBI, LAPD, and Chief Beck and former
3 Sheriff Baca in their official capacities without leave to amend,
4 dismissed Plaintiff's claims under 18 U.S.C. §§ 241 and 3121 without
5 leave to amend, and dismissed the remainder of Plaintiff's Complaint
6 with leave to amend.

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8 On April 24, 2015, Plaintiff filed a First Amended Complaint in
9 Wallace I against Verizon, Harris Corp. ("Harris"), AT&T Mobility LLC
10 ("AT&T"), the City, Chief Beck in his individual capacity, and Does
11 1-10. On May 8, 2015, the Court dismissed the First Amended Complaint
12 with leave to amend. On June 8, 2015, Plaintiff filed a Second Amended
13 Complaint in Wallace I against Verizon, Harris, AT&T, the City, Chief
14 Beck in his individual capacity, and Does 1-10. Plaintiff's Second
15 Amended Complaint in Wallace I remains pending.

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17 On March 4, 2015, Plaintiff filed a Complaint in Los Angeles
18 County Superior Court against various defendants ("Superior Court
19 action"). (Wallace v. Cellco Partners, et al., CV 15-8680 DSF (AS),
20 Dkt. No. 1, Declaration of Elizabeth Greenwood ("Greenwood Decl."), ¶¶
21 1-2, Exh. 1). On May 18, 2015, Plaintiff filed a First Amended
22 Complaint in the Superior Court action against Verizon, Harris, AT&T,
23 the City, Mayor Eric Garcetti, Chief Beck and Does 1-10. (Greenwood
24 Decl., ¶¶ 1-2, Exh. 6). On November 6, 2015, the Superior Court action
25 was removed to this Court and assigned case no. CV 15-8680 DSF (AS)
26 ("Wallace II"). On March 21, 2016, Plaintiff filed a Second Amended
27 Complaint in Wallace II against Verizon, Harris, AT&T, the City, Mayor
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1 Garcetti, Chief Beck and Does 1-10. Plaintiff's Second Amended
2 Complaint in Wallace II remains pending.

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4 At the time Plaintiff filed Wallace I and Wallace II, Rule 4(m) of
5 the Federal Rules of Civil Procedure provided, in pertinent part, that
6 "[i]f a defendant is not served within 120 days after the complaint is
7 filed, the court - on motion or on its own after notice to the
8 plaintiff - must dismiss the action without prejudice against that
9 defendant or order that service be made within a specified time." Fed.
10 R. Civ. P. 4(m) (2015).¹ Having reviewed the records in Wallace I and
11 Wallace II, it appears that Plaintiff has failed to serve Chief Beck or
12 Harris in either case and Mayor Garcetti in Wallace II.²

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14 Accordingly, IT IS HEREBY ORDERED THAT Plaintiff shall, within
15 thirty (30) days from the date of this Order, show cause in writing why
16 these actions should not be dismissed without prejudice against Chief
17 Beck and Harris and why Wallace II should not be dismissed without
18 prejudice against Mayor Garcetti, for failure to effect service of
19 process within the time specified in Fed. R. Civ. P. 4(m). Failure to
20 file timely a written response to this Order may result in dismissal of
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22 ¹ Effective December 1, 2015, Rule 4(m) was amended to shorten the
23 time limit for service from 120 days to 90 days. See Fed. R. Civ. P.
24 4(m) (2016).

25 ² In Wallace I, Plaintiff filed a Proof of Service of Summons as
26 to Harris Wireless, purportedly a California Corporation, but not as to
27 Harris, purportedly a Florida corporation. (See Wallace I, Dkt. No.
28 13, Complaint ¶ 10 (Harris Wireless is a California corporation), SAC
 ¶ 32 (Harris is a Florida corporation)). And even as to Harris
 Wireless, the Court previously noted that Plaintiff's proof of service
 was deficient. (See Wallace I Dkt. No. 15 at 1).

1 this action against defendants Mayor Garcetti, Chief Beck and Harris
2 for failure to effect service of process within the time specified by
3 Rule 4(m) of the Federal Rules of Civil Procedure and for failure to
4 prosecute.

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6 DATED: August 4, 2016

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8 /s/
ALKA SAGAR
9 UNITED STATES MAGISTRATE JUDGE
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